

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-215236

DATE: June 5, 1984

MATTER OF: Basic Marine, Inc.

DIGEST:

1. Bid received on total small business set-aside solicitation which indicates bidder would not furnish products manufactured or produced by small business concerns was properly rejected as nonresponsive.
2. Responsiveness must be determined from material available at bid opening and postopening explanations cannot be considered to correct a nonresponsive bid.

Basic Marine, Inc. (Basic), a small business concern, protests the rejection of its bid submitted in response to solicitation No. DACW69-84-B-0024 issued by the Army Corps of Engineers (Army). The procurement was a 100-percent small business set-aside. Basic's bid was rejected as nonresponsive because it represented that the supplies to be furnished would not be manufactured or produced by a small business.

We deny the protest summarily. We do so without obtaining a report from the contracting agency, since it is clear from the information furnished by Basic that the protest is without legal merit. U.S. Air Tool Co., Inc., B-214159, February 14, 1984, 84-1 CPD 200.

Basic contends that it mistakenly checked the box in its bid indicating that all supplies would not be manufactured by a small business. Basic argues that, in actuality, the firm does comply with all of the regulations and certifications concerning small businesses and, since the firm submitted the low bid, it should be considered for this work.

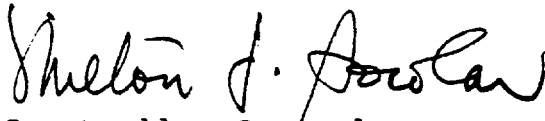
Our Office has consistently held, however, that where a bid on a total small business set-aside fails to establish the intention of the bidder, or, as in the present case, indicates a contrary intention to furnish products manufactured or produced by small business

029043

20443

concerns, the bid is nonresponsive and the bidder is ineligible for award. A G Steel, Inc., B-210669, April 1, 1983, 83-1 CPD 310; Prestex, Inc., 59 Comp. Gen. 146 (1979), 79-1 CPD 411.

Furthermore, to the extent Basic is requesting an opportunity to revise its bid, we note that the responsiveness of a bid must be determined from the material available at bid opening and postopening explanations cannot be considered to correct a nonresponsive bid, even if a lower price could be obtained by accepting the corrected bid. International Waste Industries, B-210500.2, January 13, 1983, 83-1 CPD 652; Sunsav, Inc., B-205004.2, November 29, 1982, 82-2 CPD 476. Accordingly, we find that the Army acted properly in rejecting Basic's bid as nonresponsive.

for 
Comptroller General
of the United States